

# Notice of Allowability

Application No.

09/994,458

Examiner

Maureen M. Wallenhorst

Applicant(s)

TSEUNG ET AL.

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment received on August 23, 2005.
2. ☒ The allowed claim(s) is/are 15-19, 38-40, 26-28 (renumbered 1-11).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/3/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Brinkman on September 22, 2005.

On line 4 of claim 15, the phrase "a rack configured to hold a plurality of reagent containers" was deleted and replaced with the phrase --a plurality of reagent containers--.

Between lines 13-14 in claim 15, the following phrase was inserted: --a rack configured to hold said plurality of reagent containers--.

On line 3 of claim 26, the phrase --having a solution for staining a tissue specimen and-- was inserted after the phrase "reagent container". On line 9 of claim 26, the phrase "the probe" was changed to --a probe--. At the end of claim 26 before the period, the following phrase was inserted: --by withdrawing the solution for staining from the reagent container with said probe and dispensing the solution onto the specimen slide--.

Withdrawn claims 41-49 were canceled without prejudice.

2. The following is an examiner's statement of reasons for allowance: Application serial no. 09/994,458 is being allowed since none of the prior art of record teaches or fairly suggests an apparatus and a method for staining a tissue specimen on a slide that comprises in combination a tray that holds a plurality of slides, a plurality of reagent containers, each having both an upper

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and a base wall connected by a tubular side wall, an opening in the upper wall and a concave well with a nadir formed in the base wall by a plurality of inwardly and downwardly converging wall sections, wherein the opening in the upper wall is aligned with the nadir in the base wall and wherein the reagent containers each contain a two-dimensional storage element thereon containing encoded reagent information; a rack that holds the plurality of reagent containers, a robotic delivery system having a probe and an optical reader thereon for withdrawing reagent volumes from the reagent containers and optically reading the two-dimensional storage elements on the containers, and a control system for controlling the robotic delivery system and conducting a staining protocol based upon the information read from the two-dimensional storage elements.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen M. Wallenhorst whose telephone number is 571-272-1266. The examiner can normally be reached on Monday-Wednesday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maureen M. Wallenhorst  
Primary Examiner  
Art Unit 1743

mmw

September 26, 2005

*Maureen M. Wallenhorst*  
MAUREEN M. WALLENHORST  
PRIMARY EXAMINER  
GROUP 1700